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EXAMINER

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2685

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/590,489

Applicant(s)

COHEN, MARC S.

Examiner

Charles Chow

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3-4, 6</u> . | 6) <input type="checkbox"/> Other: _____ |

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Detailed Action

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: There is no Fig. 13 in this application. However, in step 76 of Fig. 6, "Fig. 13" is used. A correction is required. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Abstract

2. The abstract of the disclosure is objected to because the abstract is too long, near 175 words. Correction is required. See MPEP§ 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1, 7-8, 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazenfield (US 5,991,374) in view of Robbins (US 6,728,167 B1).

Regarding **claim 1**, Hazenfield teaches a messaging method for use with recorded digital audio media played in digital audio media players (the remotely programmable message delivery system to CD player of the message playback devices 24a-24d, abstract, Fig. 1, col. 1, lines 9-33; col. 1, line 64 to col. 2, line 63; message is means music, advertisements or other recorded audio signal in col. 3, lines 49-55, and receiving message playback data, including sequences of selected messages, playlist, in col. 3, lines 59-62; the music on hold MOH in col. 1, lines 16-33).

Hazenfield teaches the method comprising steps of providing a message to digital audio media players (the radio paging, broadcasting to, the remote message playback device 24 with play lists via microwave link 31, col. 5, line 41 to col. 6, line 4), then, within a digital audio media player, receiving messages as a result of step of providing (the compact disc player receiving radio paging signals transmitted by a radio paging company and playing the message tracks specified in the radio paging signals, col. 2, lines 54-64; the receiver 34 in Fig. 2, col. 6, lines 24; receiving sequences of selected messages in col. 3, lines 59-65), storing received messages (the storing of demodulated signals in non-volatile memory device 55, col. 6, lines 30-32), (Note: The word "track", in applicant's claims, has been confirmed with attorney, that "track" means "music data", per telephone call in May, 2004).

Hazenfield does not clearly teach the message broadcast to digital audio media players.

Hazenfield teaches a server 12 can transmit, broadcast, a command to play the messages on

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the playlist to the intended remote sites (col. 5, lines 11-16), the remotely located computer transmits control signals via communication link for controlling plurality of message playback devices (col. 2, lines 6-11). The transmitted broadcast message could obvious be an advertisement, promotional message instead of control command.

Hazenfield does not teach the playing a stored message in response to a playback operation of the digital audio media player. However, Robbins teaches the DTMF codes controlling of the reproduction of the music or commercial messages recorded on the disc (col. 3, lines 26-38, Fig. 3-5B) for the playback operation of the DTMF of the digital audio media player. Robbins teaches the efficient playback control with minimum user intervention, by reading of the DTMF codes for the music track with interspersed with commercial messages (col. 1, line 35 to col. 2, lines 15). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hazenfield to combine Robbins' play list with DTMF control codes, such that playback of the music and commercial message could be efficiently played back by utilizing the DTMF control codes. *needs obvious statement*

Regarding **claim 7**, Hazenfield teaches the step of playing including steps of forming a message play plan (the screens for guiding operator to select from group, for which audio message is to be played, and which of a number of subsets is to play and the order sequence of playing in col. 2, lines 11-25), to determine how many message should be played from memory in response to playback operation (the selected audio message, in col. 2, lines 14-15, the audio message in storage device in col. 2, lines 5-6).

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Regarding **claim 8**, Hazenfield teaches the step of playing includes a step of launching the message play plan (to play selected audio messages in col. 2, lines 11-15; the play selected message in the playlist in col. 3, lines 59-65).

Regarding **claim 21**, Hazenfield teaches a message receiving and playing digital audio media player (the message playback devices 24a-24d for receiving message playlists via communication link 31, Fig. 1 and abstract) comprising: a digital audio medium module (the playback device 24a-24d, Fig. 1) which plays digital audio media (the playback device 24a-24d for playing of selected message, col. 6, lines 34-36), a wireless receiver module (receiver 34, Fig. 2) which receives messages from a wireless (the radio paging communication link can be microwave link or other communications link, in col. 5, lines 41-49), stores received messages (storing to memory 55, Fig. 2; queuing up tracks for playing in col. 6, lines 34-36), an audio output which produces audio in response to playing of digital audio media or outputting of messages from memory (the audio output circuit 39, the speaker output 41, Fig. 2 for generating of the audio signal in col. 5, line 64 to col. 6, line 4), an interface to interface the audio output to the digital audio medium module and the wireless receiver module (the interface, micro-controller 50 and controller board 40, to interface audio to media disc 35 and the receiver 52, Fig. 2).

Hazenfield does not clearly teach the message broadcast to digital audio media players.

Hazenfield teaches a server 12 can transmit, broadcast, a command to play the messages on the playlist to the intended remote sites (col. 5, lines 11-16), the remotely located computer transmits control signals via communication link for controlling plurality of message

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playback devices (col. 2, lines 6-11). The transmitted broadcast message could obvious be an advertisement, promotional message instead of control command.

Hazenfield does not teach the outputs stored message in response to a playback operation of the digital audio media player or outputting of messages from memory. However, Robbins teaches the DTMF codes controlling of the reproduction of the music or commercial messages recorded on the disc (col. 3, lines 26-38, Fig. 3-5B) for the playback operation of the DTMF of the digital audio media player. Robbins teaches the efficient playback control with minimum user intervention, by reading of the DTMF codes for the music track with interspersed with commercial messages (col. 1, line 35 to col. 2, lines 15). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hazenfield to combine Robbins' play list with DTMF control codes, such that playback of the music and commercial message could be efficiently played back by utilizing the DTMF control codes.

Regarding **claim 22**, Hazenfield teaches a message method for use with recorded digital audio media played in digital audio media players (the message playback devices 24a-24d for playback receiving message play lists to play selected messages, Fig. 1 and abstract), the method comprising steps of loading messages into memory of digital audio media player (the receiving, loading, demodulated signals into memory 55 of the playback device 24, Fig. 2, col. 6, lines 30-32); then, within a digital audio media player (24), storing message received from the step of loading (the received play list has sequence of messages, col. 3, lines 60-65, and memory 55 above has the stored play list which has messages received;the commanding the disc player to play the message tracks specified in the radiopaging signal in requested

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sequence generated by the client computer, col. 2, lines 58-64; the playing message in response to the playback operation corresponding to the received playlist, col. 3, lines 59-65).

Hazenfield does not clearly teach the message broadcast to digital audio media players.

Hazenfield teaches a server 12 can transmit, broadcast, a command to play the messages on the playlist to the intended remote sites (col. 5, lines 11-16), the remotely located computer transmits control signals via communication link for controlling plurality of message playback devices (col. 2, lines 6-11). The transmitted broadcast message could obvious be an advertisement, promotional message instead of control command.

Haxenfield does not teach the playing a stored message in response to a playback operation of the digital audio media player. However, Robbins teaches the DTMF codes controlling of the reproduction of the music or commercial messages recorded on the disc (col. 3, lines 26-38, Fig. 3-5B) for the playback operation of the DTMF of the digital audio media player.

Robbins teaches the efficient playback control with minimum user intervention, by reading of the DTMF codes for the music track with interspersed with commercial messages (col. 1, line 35 to col. 2, lines 15). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hazenfield to combine Robbins' play list with DTMF control codes, such that playback of the music and commercial message could be efficiently played back by utilizing the DTMF control codes.

4. Claims 2, 13, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazenfield in view of Benyamin et al. (US 6,721,489 B1).

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Regarding **claim 2**, Hazenfield does not teaches the playback operation comprising a track end. However, Benyamin teaches the playback operation comprising a track end (in step 936, Fig. 12, processor playing audio, video, data, if the message was end of track then in step 962 processor 302 causes the music player to play next track, to playback the next music track. In step 964, processor sends the text information about the current music track being played to controller 320). Benyamin teaches the improved technique for having a play list manager to create play music play list based on the specified criteria (abstract, Fig. 1, Fig.13-16, Fig. 20), the efficiently handling large number of music playing in play list by automatically adding the music tracks (col. 1, line 37 to col. 2, line 13). Benyamin teaches the efficient end of track playback operation by automatically playing next track (steps 960, 962). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hazenfield, and to include Benyamin's controlling the end of track playback operation, such that the music playback operation could automatically play next track without interrupting the listening.

Regarding **claim 13**, Hazenfield teaches the step of playing including selecting a message from memory based upon a track title (Fig. 11, the Title for the descriptive title of message; the LISt for play list name in Fig. 16, for the distributed message to remote CD player 24). Benyamin teaches the playback operation is a track end (in step 936, Fig. 12, processor playing audio, video, data, if the message was end of track then in step 962 processor 302 causes the music player to play next track, to playback the next music track. In step 964, processor sends the text information about the current music track being played to controller 320).

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Regarding **claim 23**, Hazenfield teaches the step of playing including selecting a message from memory based upon a track title (Fig. 11, the Title for the descriptive title of message; the LIST for play list name in Fig. 16, for the distributed message to remote CD player 24). Benyamin teaches the playback operation is a track end (in step 936, Fig. 12, processor playing audio, video, data, if the message was end of track then in step 962 processor 302 causes the music player to play next track, to playback the next music track. In step 964, processor sends the text information about the current music track being played to controller 320).

5. Claims 3, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazenfield in view of Benyamin, as applied to claim 2 above, and further in view of Robbins (US 6,728,167 B1).

Regarding **claim 3**, Hazenfield and Benyamin do not teaches a random number of messages are played by the step of playing in response to a playback operation. However, Robbins teaches a random number of messages are played by the step of playing in response to a playback operation (the CD player for playing music interspersed with commercial messages in abstract; the random playback from the play list in col. 7, lines 31-37; the total number of tracks of music between commercials TM in Fig. 3A; the identifying a music track in Fig. 5A; the generating of play list, play plan, in steps 530-564; the sixteen DTMF tone codes for controlling, indicating the position, Fig. 3, of the commercial message or the music track in col. 3, lines 26-37, col. 5, lines 48 to col. 6, lines 31, Fig. 4). Robbins teaches an efficient technique for controlling the rate of interruption of commercial message during the music

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play, with a minimul user intervention, having DTMF tone codes for controlling the playback operation. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hazenfield combined with Benyamin above, and to include Robbins's play list for random playback, such that the message playback could be upgraded by randomly, conveniently, playing back of the message, instead of sequentially playing back. Regarding **claim 9**, Hazenfield does not teach the erasing control code data when either the digital audio medium in the player is removed or the player is turned off, However, Benyamin teaches the user can delete a play list (col. 13, line 4, col. 12, line 51 to col. 13, line 4). It would be obvious for the player to erase the play list plan when the audio media is removed or the player is turned off, such that the memory space of the media player could be freed up for efficient utilization. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hazenfield, and to include Benyamin's erasing of a play list, such that the memory space of the media player could be freed up for efficient utilization.

Hazenfield and Benyamin do not teach the reading control code, storing control code data wherein the control data indicates at least break locations between tracks, executing the message play plan. However Robbins teaches reading control code (generate play list in step 534, read and check control code DTMF in steps 540, 556 and read interrup rate in step 548 in Fig. 5B and the sixteen DTMF tone codes for controlling, indicating the position, Fig. 3, of the commercial message or the music track in col. 3, lines 26-37, col. 5, lines 48 to col. 6, lines 31, Fig. 4), storing control code data wherein the control data indicates at least break locations between tracks (the cue commercial track in steps 552, 550, for storing of the

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control code, DTMF into generated play list, and the DTMFs is interspersed between music, Fig. 3, abstract; marking and saving commercial message to be played in col. 7, lines 3-10), executing the message play plan (the playing of the disc begins at step 528 in col. 7, lines 24-25; the step 544 for verifying of end of playlist and executing the playlist by play commercial track at step 554). Robbins teaches the efficient playback control with minimum user intervention, by reading of the DTMF codes for the music track with interspersed with commercial messages (col. 1, line 35 to col. 2, lines 15). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hazenfield combined with Benyamin above, and to include Robbins' play list with DTMF control codes, such that playback of the music and commercial message could be efficiently performed with minimum user intervention, by utilizing the DTMF control codes.

Regarding **claim 10**, Robbins teaches the checking memory to determining a number of messages stored therein (the informing of the controller of the rate at which the commercial messages should be interrupt the music in abstract, for the determining of the number of messages on CD player; and in col. 3, lines 5-12), determining, using the control code data track on the digital audio medium that will have message played between them (the number of tracks of music between commercials, Fig. 3), determining based on the number of message stored in memory (rate of interruption from stored commercial message) and the number of breaks between tracks indicated by the control code (DTMF code), a number of message to play at teach break between tracks (the checking of DTMF in step 556, and the incrementing of the counting of commercial track in step 560, for counting of the commercial message to playback).

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Regarding **claim 11**, Robbins teaches the using the control code data track (DTMF code), includes randomness (the random playback from the play list in col. 7, lines 31-37).

Regarding **claim 12**, Robbins teaches launching a message play plan (the play disc begin in step 528 and play commercial in step 5554), identifying using control code data a next track on the digital audio medium to be played (step 540 for verifying DTMF for music track), using the message play plan to determine if a message is to be played before the next track (the step 556 for verifying the DTMF code for commercial message, and step 560 for incrementing counter for commercial message) if no message is be played returning to the step of identifying (if no DTMF at step 556, go to start 558), otherwise, determining the number of message to be played from the message play plan (step 560, incrementing commercial message counter) and pulling that number of messages from memory (playing the number of commercial tracks in step 554 based on the rate value of the commercial interruptions in step 548) and playing the messages pulled from memory (play commercial track in step 554) prior to next track (cue next track on playlist at step 550).

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hazenfield in view of Lakhansingh (US 6,041,023).

Regarding **claim 4**, Hazenfield does not teaches a step of converting, after the step of receiving a received message if the message is in analog format. However, Lakhansingh teaches the a step of converting, after the step of receiving a received message if the message is in analog format (the radio receiver converts received signals into digital data signals 20, col. 3, lines 39-46, Fig. 5, radio receiver A/D). Lakhansingh teaches a portable compact disk

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CD player 10 can save the favorite music selections from broadcast station AM/FM, and writes the music selections to the CD player for playing back (abstract, Fig. 1-5), having the improved technique for storing, editing, retrieving of the audio, video information from the CD player (col. 2, line 49 to col. 3, lines 25). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hazenfield, and to include Lakhansingh's portable radio CD player 10 for converting received signal to digital signal and writing to disk memory of the CD player, such that the favorite music selections could be efficiently saved to a compact disk for playing back favorite song later.

7. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazenfield in view of Kuroda (US 6,311,011 B1).

Regarding **claim 5**, Hazenfield does not teach the claimed features for this claim.

However, Kuroda teaches the initially storing a received message in short term storage (temporary recording to HDD in step S101, Fig. 3 in the recording of audio, video signals), checking long term memory to see if space available for the received message (calculate a capacity for storing contents in step S104), then if space is available for the received message (is remaining capacity enough in step S107), transferring the received message to long term memory (if yes, go to step S108, S109, to copy the temporary recorded contents to the selected storage device), else freeing space in long term memory (deleting the content signals of the old program recorded in abstract) and then transferring the received message to long term memory. Kuroda teaches the efficient recording with improved technique by confirming the available memory space is large enough for recording, and making memory space for

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recording by deleting the oldest stored program. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hazenfield, and to include Kuroda's message storing techniques, having temporary storage, the verifying of available space for transferring message from temporary storage to selected, long term, storage, such that the recording could be efficiently performed by verifying the available memory space and by making free space by deleting oldest stored program.

Regarding **claim 6**, referring to Kurada in claim 5 above for the deleting messages beginning with oldest message until enough space exists for the received message (in abstract).

8. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazenfield in view of Strasnick, as applied to claim 14 above, and further in view of Hunter et al. (US 6,647,417 B1).

Regarding **claim 15**, Hazenfield and Strasnick do not teaches arranging manufacture, prior to the step of distributing, players to be distributed in the step of distributing., However, Hunter et al. (Hunter) teaches this claimed features (the customer placing order of compact music disc by contacting manufacture before operator collecting customer requests for overnight shipping of the requested compact music disc in col. 14, lines 19-37, Fig. 14; col. 9, lines 4-21). Hunter teaches an improved technique for distributing music tracks to customer having the customers pre-selecting from a list of available music in advance, via satellite link, and distributing music disc by ground transportation in abstract), for efficiently distributing music tracks utilizing the interactive menu for preview (col. 3, lines 16-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify

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Hazenfield combined with Strasnick, and to include Hunter's placing order for manufacturing CD for overnight delivery to customer, such that distributing of the music track could be efficiently delivered by utilizing the menu driven and the previewing of the music data.

Regarding **claim 16**, Strasnick teaches the arranging of marking players to be distributed with promotion indicia (system operator packages the advertisements and music and then broadcasts them for automatic downloading by all customers or by selected group of customers based on the broad profile information developed by the operator; col. 13, lines 57 to 64; operator create customer profiles and assign each customer to one of these profiles according to music preference information entered by customer, col. 12, lines 30-33).

Regarding **claim 17**, Hunter teaches the messages promote music and include music sample (music and advertisement broadcasted to group of customers based on the broad profile information, col. 13, lines 54 to col. 14, line 18; Fig. 10, Celine Dion, All the way...A Decade of Song, Order now, Click here; Fig. 11, Fig. 13).

9. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazenfield in view of Strasnick, as applied to claim 18 above, and further in view of Hendricks et al. (US 6,463,585 B1).

Regarding **claim 19**, Hazenfield and Strasnick do not teach the claimed features for this claim. However, Hendricks et al. (Hendricks) teaches the player having different receiving channel are distributed to separate target groups (the assigning advertising channels to groups watching particular categories of program in Fig. 31, col. 8, lines 44-46), and the separate

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broadcast by using separate channels (the broadcast particular program, with groups 1 and 2 receiving the targeted advertising carried on the program channel and groups 3-4 receiving the targeted advertising carried on feeder channel 1, Table F). Hendricks teaches the improved technique for efficiently delivery of targeted advertisement to customers (col. 2, line 59 to col. 3, line 48). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Hazenfield combined with Strasnick above, and to include Hendricks's targeted advertisement on different broadcast channel, such that the targeted advertisement could be efficiently presented to customer on a different channel without interrupting other channel.

Regarding **claim 20**, Hendricks teaches the separate target groups are geographically separated and the separate broadcast is achieved by geographic separation between broadcast (the targeted advertising group categories is mapped with the demographic customer cluster group in the process for assigning targeted advertisement to broadcast program channels and feeder channels, based on the zip code +4 data in col. 35 lines 1-15, Table E, Table F, Table G).

Claim Allowance

10. Claims 14, 18 are allowable over the prior art of record.

The following is the examiner's statement for the reasons of allowance:

The prior art fails to teach singly, particularly, or in combination, the subject matter for a message promotion method for use with recorded digital audio media played in digital audio players, the method comprising steps of: arranging distribution of portable digital audio media players capable of playing digital audio media, receiving messages from a wireless

broadcast, storing received messages and playing a stored message to a playback operation of the digital audio player to a target group of people; providing a message broadcast to players distributed in said step of distributing, as shown in independent claim 14. The dependent claim 18 is also allowable due to their dependency upon the independent claim.

The closest patent to Hazenfield taught in claim 1 above the remote messages play back device for receiving control command for playing back the stored message on CD player. However, Hazenfield does not clearly teach the message broadcast to digital audio media players. Hazenfield teaches a server 12 can transmit, broadcast, a command to play the messages on the playlist to the intended remote sites (col. 5, lines 11-16), the remotely located computer transmits control signals via communication link for controlling plurality of message playback devices (col. 2, lines 6-11).

Hazenfield also does not teach the outputs stored message in response to a playback operation of the digital audio media player or outputting of messages from memory.

However, Robbins teaches the DTMF codes controlling of the reproduction of the music or commercial messages recorded on the disc (col. 3, lines 26-38, Fig. 3-5B) for the playback operation of the DTMF of the digital audio media player. Robbins teaches the efficient playback control with minimum user intervention, by reading of the DTMF codes for the music track with interspersed with commercial messages (col. 1, line 35 to col. 2, lines 15).

Hazenfield and Robbins does not teaches the playing a stored message in response to a playback operation of the digital audio media player to a target group of people, providing a message broadcast to players distributed in the step of distribution. However, Strasnick teaches the playing a stored message in response to a playback operation of the digital audio

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media player to a target group of people (the distributing of advertising message to target user group based on the demographic characteristics in abstract, Fig. 5-7, the broadcast advertisement, spot, on TV [0003]; the demographic characteristic based on females, age groups, residents of ZIP code, people of particular interest in [0032]), providing a message broadcast to players distributed in the step of distribution (Fig. 5, step 520 for the associating appropriate advertisements with demographic characteristic; the step 530 for distribute play sub-list).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee, and to avoid processing delays, should preferably accompany the issue fee. Such submission should be clearly labeled "comments on statement of reasons for allowance".

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. US 4,805,217, February 1989, Morihiro et al. teaches the receiving set with playback function having digital memory for recording audio signal in compress form (abstract, Fig. 1-3, col. 1, line 22 to col. 2, line 9).

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Chow whose telephone number is (703)-306-5615.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (703)-305-4385.

Art Unit: 2685

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to: (703) 872-9306 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the Technology Center 2600 Customer Service Office
whose telephone number is (703) 306-0377.

Charles Chow C.C.

June 1, 2004.


EDWARD F. URBAN
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